WP

DIVISIONAL FOREST OFFICE
SOUTHERN CIRCLE
WORKING PLANS PART V

SECURITIES.

1. The postage on advices forwarded from the Bombay Presidency of notes enfaced for payment of interest in London, should be prepaid. (S. of S., Finl., No. 137, dated 17th December 1866; *vide* G. M. No. 66, dated 16th January 1867.)

2. A copy of the following letter No. 2120, dated 31st March 1874, addressed by the Government of India to the Secretary and Treasurer, Bank of Bengal, was forwarded to the Secretary and Treasurer, Bank of Bombay, for information and guidance:—

> "The omission to observe the proper form of endorsement of Promissory Notes tendered for renewal, having in a recent case in the North-Western Provinces afforded facility for the misappropriation of notes by a treasury clerk, I am directed to request that in future when notes are received for renewal 'blank endorsed' instead of in the proper form, *viz.*, with the words 'received a renewed note in lieu of this in my name,' you will be good enough immediately to point out the irregularity to the officer concerned."

(G. R. No. 1222, dated 17th April 1874.)

3. Section 30 of the Bombay District Municipal Acts deals with the contracts, and the transfer of Government Securities is not a contract. Under Section 15 the Municipality has a common seal, and I think this common seal must be affixed to every instrument by which a transfer of municipal property is to be effected: *vide* 45 and 46 Vic., Cap. 50, Section 118. The Act is silent as to the person by whom and the mode in which the common seal is to be affixed. It is one of those matters as to which each Municipality may make rules under Section 32. In the absence of such a rule the Municipality, or any Committee thereof so empowered under Section 27 (10), must decide on each occasion who is to affix the common seal; and the person so authorized should then affix the seal to the instrument in question, in this case the transfer of a Government Security, and authenticate the same by his signature. (Adv. Gen., No. 25, dated 3rd April 1889: *vide* G. R. No. 1942, dated 16th May 1889.)

4. Government Securities to be transferred to Municipalities to which the Bombay District Municipal Acts apply, should be transferred into the corporate name of "the Municipality of " and not into the name of the President. (G. R. No. 1942, dated 16th May 1889.)

5. The best precaution which can be taken by public officers in the case of Government Promissory Notes tendered as security deposits by contractors and others, if there be any doubt as to the regularity of the endorsements thereon, is to send

such notes to the Public Debt Office for renewal. (G. I., F. D., No. 1477, dated 19th June 1875: *vide* G. R. No. 2134, dated 5th July 1875.)

6. It should be distinctly understood that in future when men of straw or inadequate means are accepted as sureties, and any loss to Government results from the insufficiency of such security, the officers accepting such sureties will be held personally responsible for any loss incurred. (G. R., R. D., No. 2608, dated 21st April 1882.)

7. The following opinion No. 13, dated 5th January 1885, was recorded by the Remembrancer of Legal Affairs:—

"In this case it seems that V. made an application on the 26th November 1881 for canal water for 5 acres of land in his survey No. 82 in the village of Parvati for watering a sugarcane crop. This application was granted and on the 18th January 1882 he made a further application for water for other 5 acres in the same number, which was also granted.

"2. But when the area under the sugarcane crop irrigated by V. came to be measured it proved to be 15 acres 12 gunthás, for which, at the settled rate of Rs. 25 per acre, the Irrigation Department had a claim against him for Rs.382-8-0. This sum the Mámlatdár was desired to recover. In the meantime V. absconded and the sale of the crop, which the Mámlatdár attached, realized Rs. 125 only.

"3. Below each of the two applications for water made by V. there is a security-endorsement to the effect that, if the applicant should fail to pay the water-rate or any other sum due by him on account of the water, the surety would pay for him. This endorsement on the first application was signed by V. M., on the second by G. L. D. These two gentlemen have been called upon to pay what is due by V.; but the former denies his responsibility, because on the 14th January 1882 he gave notice to the Executive Engineer for Irrigation requesting that his security might be cancelled, and the latter alleges that he is only responsible for what is due by V. on the 5 acres of land in respect of which he stood surety.

"4. I do not think that the notice given by V. M. diminishes his responsibility. Under Section 130 of the Contract Act it is only 'a continuing guarantee' which may at any time be revoked by the surety as to future transactions. A continuing guarantee is one which extends to a series of transactions (Act IX, 1872, Section 129). V. M. guaranteed only the payment due by V. in respect of his one application and this cannot be called a continuing guarantee. Having contracted with the Executive Engineer to indemnify him against any failure to pay on the part of V. the contract cannot be cancelled at his sole desire. It could only be cancelled with the concurrence of both the parties to it.

"5. But each of the two sureties is, in my opinion, only responsible for the particular transaction to which he was a party, *i. e.*, for the dues recoverable from V. in respect of the 5 acres of land to which the application related, beneath which they respectively executed a security-endorsement. And as Rs.125 have already been realized in respect of the whole area of 15 acres 12 gunthas which V. irrigated, each of the sureties is, I think, entitled to credit for the portion of that amount which bears the same ratio to the whole as 5 acres does to 15 acres 12 gunthas, and is only responsible for the difference between such portion and the dues recoverable on 5 acres * * * * *."

(G. R., R. D., No. 663, dated 23rd January 1885.)

8. There is no objection to the acceptance, from Government contractors, of Municipal and Port

Trust debentures as security deposits. Such debentures may also be accepted as security deposits from Government officers entrusted with the custody of public money. (G. R. No. 2313, dated 11th August 1885.)

9. The rules which direct that public securities deposited for more than a year with public officers in any Department should be entrusted to the Accountant General do not apply to Promissory Notes, the property of Native States, securities held in trust by the Administrator General and Official Assignee and Trustee, those held by a Government officer merely as a joint trustee with private individuals, or those deposited in Courts of Justice and forming the subject of law suits. (G. I. F. D., No. 2155, dated 11th August 1880; *vide* G. R. No. 3070, dated 25th idem.)

10 The term "Public Office" used in Section 33 of the Indian Stamp Act, 1879, has been accepted by the Government of India as meaning an office 'belonging or pertaining to the State.' The same expression used in Section 7 (1) of the Indian Securities Act, 1886, accordingly applies only to a Government office, and the section is, therefore, inapplicable to those of the Hyderabad Municipality and the Karáchi Port Trust. (G. R. No. 1710, dated 5th June 1888.)

11. It is not desirable to add to the list of *ex officio* holders under Section 7 (1) of the Indian Securities Act XIII of 1886, further than is really necessary. (G. I., F. & C., No. A.—5096, dated 20th December 1892: *vide* G. R. No. 1711, dated 4th May 1893.)